

SUPREME COURT OF ARKANSAS

IN RE: ADMINISTRATIVE ORDER
NUMBER 20 and RULES OF THE
SUPREME COURT AND COURT OF
APPEALS 4-1 and 4-4

Opinion Delivered December 11, 2008

PER CURIAM

Administrative Order Number 20, which provides minimum qualifications and uniform appointment procedures for private civil process servers, has been in place for almost a year. Experience with the Order has revealed the need for clarifying amendments. We thank the members of the bench and bar, and the private process servers, who brought these issues to our attention. We amend and republish Administrative Order Number 20 in its entirety. The Explanatory Note at the end of the amended Order describes the minor changes and clarifications. These amendments are effective immediately.

On October 23, 2008, we issued a *Per Curiam* adopting various rule amendments to implement Administrative Order 19 at the beginning of 2009. We see the need for two more amendments about redactions in appellate briefs. We have therefore added language to Rules 4-1 and 4-4 of the Supreme Court and Court of Appeals. The new provisions appear at the end of Rule 4-1(d) and the end of Rule 4-4(a), (b), & (c). The changes are largely self explanatory. If confidential information is necessary and relevant to the issues on appeal, then the party should file the usual seventeen copies of the brief—with eight copies redacted, and nine copies unredacted. The unredacted copies should be filed under seal. The cover of each brief should note REDACTED or UNREDACTED to distinguish the versions. For the next few years, some appellate records will

contain confidential information that is not necessary or relevant to the issues on appeal. In these cases, the parties should simply omit any confidential information from every part of every brief, including the abstract and the addendum. If confidential information is integrated with necessary information, then the confidential information should be redacted. But there is no need to file unredacted copies of the briefs in such cases because the appellate court will not need the confidential information to decide the case. These amendments to Rule 4-1 and 4-4 are effective January 1, 2009.

A. ADMINISTRATIVE ORDER

Administrative Order Number 20 is hereby amended and republished in its entirety.

ADMINISTRATIVE ORDER NUMBER 20

Private Civil Process Servers

Appointment—Qualifications

(a) *Authority to Appoint Persons to Serve Process in Civil Cases.* The administrative judge of a judicial district, or any circuit judge(s) designated by the administrative judge, may issue an order appointing an individual to make service of process pursuant to Arkansas Rule of Civil Procedure 4(c)(2) in cases pending in each county of the district wherein approval has been granted. The appointment shall be effective for every division of circuit court, and for every district court, in the county.

(b) *Minimum Qualifications to Serve Process.* Each person appointed to serve process must have these minimum qualifications:

- (1) be not less than 18 years old and a citizen of the United States;
- (2) have a high school diploma or equivalent;

- (3) not have been convicted of a crime punishable by imprisonment for more than one year or a crime involving dishonesty or false statement, regardless of the punishment;
- (4) hold a valid driver's license from one of the United States; and
- (5) demonstrate familiarity with the various documents to be served.

Each judicial district may, with the concurrence of all the circuit judges in that district, prescribe additional qualifications.

(c) *Appointment Procedure.*

(1) A person seeking court appointment to serve process shall file an application with the circuit clerk. In a multi-county district, an applicant may file an application in one county seeking appointment in one or more counties of the district. The application shall be accompanied by an affidavit stating the applicant's name, address, occupation, and employer, and establishing the applicant's minimum qualifications pursuant to section (b) of this Administrative Order. Neither the application nor the affidavit shall require disclosure of the applicant's social security number. The General Assembly will set any application fee charged by the circuit court.

(2) The circuit judge shall determine from the application and affidavit, and from whatever other inquiry is needed, whether the applicant meets the minimum qualifications prescribed by this Administrative Order and any additional qualifications prescribed in that district. If the judge determines that the applicant is qualified, then the judge shall issue an order of appointment. The circuit clerk shall file the order, and provide a certified copy of it to the process server and to the

sheriff of the county in which the person will serve process. The circuit clerk of each county shall maintain and post a list of appointed civil process servers. In multi-county districts, if the applicant has sought appointment in more than one county, then the order shall specify the counties in which the process server is qualified. In this instance, the circuit clerk shall also provide a certified copy of the order to the sheriff and circuit clerk of each county in which the person will serve process.

(d) *Identification.* When serving process, each process server shall carry a certified copy of his or her order of appointment and a valid driver's license. He or she shall, upon request or inquiry, present this identification at the time service is made.

(e) *Duration, Renewal, and Revocation.*

A judge shall appoint process servers for a fixed term not to exceed three years. Appointments shall be renewable for additional three-year terms. A process server seeking a renewal appointment shall file an application for renewal and supporting affidavit demonstrating that he or she meets the minimum qualifications prescribed by this Administrative Order and the judicial district. The General Assembly shall set any renewal fee charged by the circuit court. Upon notice to the administrative judge, any circuit judge may revoke an appointment to serve process for his or her division for any of the following reasons: (1) making a false return of service; (2) serious and purposeful improper service of process; (3) failing to meet the minimum qualifications for serving process; (4) misrepresentation of authority, position, or duty; or (5) other good cause.

(f) *Forms.* Forms for the application, affidavit, order of appointment, and renewal of appointment are available at the Administrative Office of the Courts section of the Arkansas Judiciary

website, <http://courts.state.ar.us>.

Explanatory Note, 2008 Amendment: The Administrative Order has been clarified in various respects. The change in subsection (a) confirms that the Order and Rule 4(c)(2) must be read in harmony. Moreover, the circuit court's authority extends to appointing process servers for the district courts within the judicial district. In subsection (b), the requirement of having Arkansas driver's license has been changed to having a valid driver's license from any state. In subsection (c), the procedure for appointment in multi-county districts has been spelled out: an applicant may seek a multi-county appointment by applying to any circuit court in a multi-county district. The circuit clerk in the county where the petition is filed must provide certified copies of any appointment order to the circuit clerks and sheriffs in all counties covered by the appointment. As amended, the Order prohibits requiring an applicant to disclose his or her social security number during the application process. Finally, the Order clarifies that any fee related to an application for appointment or renewal shall be set by the General Assembly.

B. RULES OF THE SUPREME COURT AND COURT OF APPEALS

Rules 4-1(d) and 4-4(a),(b) & (c) are hereby amended as follows:

Rule 4-1. Style of briefs.

* * *

(d) *Compliance with Administrative Order 19 required.* All parts of all briefs, including the abstract and any document attached to any brief in the addendum, must comply with the protective requirements for confidential information established by Administrative Order 19. Counsel and

unrepresented parties shall follow the redaction and filing procedure established by Rule of Civil Procedure 5(c)(2)(A) & (B). That procedure includes: (1) eliminating all unnecessary or irrelevant confidential information; (2) redacting all necessary and relevant confidential information; and (3) filing an unredacted version under seal. If the record contains confidential information that is neither necessary nor relevant for the appellate court's consideration of the case, then the party shall omit that information throughout the brief, including the abstract and addendum. If confidential information is integrated with necessary information, then the party should redact the confidential information in the abstract and addendum. In this situation, the party need not file an unredacted version of the brief. If the confidential information is necessary and relevant to a decision on appeal, pursuant to Rule 4-4, the party must file 8 redacted copies and 9 unredacted copies of the brief for a total of 17 copies. The unredacted copies shall be filed under seal. The cover of each brief shall indicate clearly whether it is REDACTED or UNREDACTED.

Rule 4-4 Filing and service of brief in civil cases.

(a) *Appellant's brief.*

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When a party has determined that confidential information is necessary and relevant to the appellate court's consideration of the case, redaction shall be done pursuant to Rule 4-1(d), and the party shall file 8 redacted copies and 9 unredacted copies of the appellant's brief. The unredacted copies shall be filed under seal. The cover of each brief shall indicate clearly whether it is REDACTED or UNREDACTED.

(b) *Appellee's brief – Cross-appellant's brief.*

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When a party has determined that confidential information is necessary and relevant to the appellate court's consideration of the case, redaction shall be done pursuant to Rule 4-1(d), and the party shall file 8 redacted copies and 9 unredacted copies of the appellee's brief or cross-appellant's brief. The unredacted copies shall be filed under seal. The cover of each brief shall indicate clearly whether it is REDACTED or UNREDACTED.

(c) *Reply brief –cross-appellant's reply brief.*

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When a party has determined that confidential information is necessary and relevant to the appellate court's consideration of the case, redaction shall be done pursuant to Rule 4-1(d), and the party shall file 8 redacted copies and 9 unredacted copies of the reply brief or cross-appellant's reply brief. The unredacted copies shall be filed under seal. The cover of each brief shall indicate clearly whether it is REDACTED or UNREDACTED.